



Practitioner's Docket No. MSU 4.1-406

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Alberto L. Mendoza

Application No.: /

Group No.:

Filed:

Examiner:

For: **METHOD AND VACCINE FOR TREATMENT OF PYTHIOSIS INSIDIOSI
IN HUMANS AND LOWER ANIMALS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

STATEMENT OF BIOLOGICAL CULTURE DEPOSIT

WARNING: Submission of a letter related to a biological deposits after a Notice of Allowance may subject an application to a reduction in patent term adjustment under 37 C.F.R. 1.704(c)(10). See Notice of May 29, 2001, 1247 OG 111-112, June 26, 2001.

I, Alberto L. Mendoza

Name of Applicant or Assignee or Assignee's representative

hereby state:

1. That the following culture(s) referred to in the specification of this application have been deposited:

<u>Pythium insidiosum CBS 574.85</u>	<u>74446</u>
Strain (originally labelled H-9)	Accession number
Strain	Accession number
Strain	Accession number
Strain	Accession number

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10 *

☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Addressee"

Mailing Label No. _____ (mandatory)

TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office, (703) _____

Tammi L. Taylor

Signature

Date: 3/21/06

Tammi L. Taylor

(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

2. That the date of the above deposit is:

(check appropriate item below)

- ☒ before the U.S. filing date of this application.
☐ after the U.S. filing date of this application and proof that the culture(s) identified above is(are) the same culture(s) described in the application as filed is attached.

3. That the name and address of the depository is:

American Type Culture Collection

Name of depository

12301 Parklawn Drive

Address of depository

Rockville, MD 20852

4. That a statement that the culture(s) deposited with the above named depository was (were) viable and was (were) capable of reproduction, if appropriate, on the date of deposit is attached. Such statement is executed by:

(complete a, b or c below)

- a. ☒ the depository.
b. ☐ the applicant.
c. ☐ a competent third party.

WARNING: If the applicant himself or a competent third party makes the statement that the microorganism is viable and is capable of reproduction, if appropriate, then the tests must have been performed on a sample certified to have been (1) received by the depository with the same samples actually deposited and (2) promptly returned to applicant.

5. That, with respect to the permanence of the culture(s) deposit:

(complete a, b, or c)

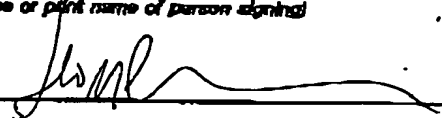
- a. ☒ the depository is an official depository, in accordance with the Budapest Treaty for the above deposited culture(s).
b. ☒ the depository affords permanence of the deposit for at least 30 years or at least 5 years after the most recent storage request, whichever is longest.
c. ☒ evidence that permanent availability of the microorganism is assured is provided in the form of the attached copy of the contract with the above-mentioned depository with respect to the deposited culture(s).

I state that should the microorganism(s) mutate, become nonviable or be inadvertently destroyed, applicants will replace such microorganism(s) for at least 30 years from the date of the original deposit, or at least 5 years from the date of the most recent request for release of a sample or for the life of any patent issued on the above-mentioned application, whichever period is longer.

6. That, with respect to availability of the culture(s), I state that the deposit has been made under conditions of assurance of (a) ready accessibility thereto by the public if a patent is granted whereby all restrictions to the availability to the public of the culture so deposited will be irrevocably removed upon the granting of the patent (M.P.E.P. § 608.01(p)), and (b) access to the culture will be available during pendency of the patent application to one determined by the Commissioner to be entitled thereto under 37 C.F.R. § 1.14 and 35 U.S.C. § 122.

- ☒ Evidence of the accessibility of the culture(s) as set forth above is provided in the form of the attached copy of the contract with the above mentioned depository with respect to the deposited cultures.

3/21/06
Date

Alberto L. Mendoza
(type or print name of person signing)

Signature

P.O. address of Signatory
322 N. Kedzie Hall, Michigan State University
East Lansing, MI 48824

- ☒ Inventor
☐ Assignee of complete interest
☐ Person authorized to sign on behalf of assignee

(complete the following, if applicable)

(type name of assignee)

Address of assignee

Title of person authorized to sign on behalf of assignee:

Assignment recorded in PTO on _____

Reel _____ Frame _____

A "STATEMENT UNDER 37 C.F.R. § 3.73(b)" is attached.

(Statement of Biological Culture Deposit [3-25]—page 3 of 3)

ATCC



10801 University Blvd Manassas, VA 20110-2209 Telephone: 703-365-2700 FAX: 703-2745

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Michigan State University, Medical Technology Program
Attn: Alberto Leonel Mendoza
322 N. Kedzie Lab
East Lansing, MI 48824-1031

Deposited on Behalf of: Michigan State University

Identification Reference by Depositor:

ATCC Designation

Pythium insidiosum CBS 574.85 (originally labelled H-9)

74446

The deposit was accompanied by: a scientific description X a proposed taxonomic description indicated above.
The deposit was received June 1, 1998 by this International Depository Authority and has been accepted.

AT YOUR REQUEST:

X We will not inform you of requests for the strain.

X The strain is available to the scientific public upon request as of June 1, 1998.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested July 15, 1998. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA

Signature of person having authority to represent ATCC:

Barbara M. Hailey
Barbara M. Hailey, Administrator, Patent Depository

Date: July 20, 1998

cc: Ian C. McLeod (Ref. Docket MSU 4.1-356)